

Nicholas C. Inman
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ATTORNEY FOR DEBTOR(S)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

ERVIN FRANK LAYER

Debtor

§ CASE NO. 17-32670-13

§

§ CHAPTER 13

OBJECTION TO CLAIM OF LVNV FUNDING, LLC PROOF OF CLAIM NO. 6

TO THE HONORABLE JUDGE OF THIS COURT:

NO HEARING WILL BE CONDUCTED ON THIS OBJECTION TO CLAIM UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT U.S. Bankruptcy Court, Earle Cabell Federal Building, 1100 Commerce St., Rm. 1254, Dallas, TX 75242-1496 BEFORE 33 DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

COMES NOW **Ervin Frank Layer** , Debtor in the above-numbered and styled cause, who files this his Objection to Claim of LVNV Funding, LLC ("Respondent"), and would respectfully show the Court as follows:

1. Debtor **Ervin Frank Layer** filed for bankruptcy protection under Chapter 13 on 7/7/2017 and his Plan was subsequently confirmed.

2. The last date for which creditors could file claims was 11/15/2017. Respondent filed its proof of claim on or about 10/04/2017, claiming the amount of \$1,147.53.

3. Debtor objects to Respondent's proof of claim due to the fact that the last payment date was 05/09/2009 and the account was charged off on 12/31/2009. Both of these dates are at least four years prior to the filing of this claim. On the face of the Proof of Claim, the Claim is barred by Statute of Limitations. The Statue of Limitations on action for breach of contract or account is 4 years. Tex. Civ. Prac. & Rem. Code §16.004.

WHEREFORE, PREMISES CONSIDERED, Debtor **Ervin Frank Layer** prays that the Court sustain Debtor's objection; disallow Respondent's claim; and for such other and further relief as the Court deems just.

Dated: November 15, 2017

Respectfully Submitted,

ALLMAND LAW FIRM, P.L.L.C.

/s/ Nicholas C. Inman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 15, 2017, a true and correct copy of the foregoing was served on all parties in interest below.

DEBTOR:

Ervin Frank Layer
9814 Faircrest Drive
Dallas, TX 75238

STANDING CHAPTER 13 TRUSTEE:

125 John Carpenter Freeway, Suite 1100
Irving, TX

U.S. TRUSTEE

Room 976
1100 Commerce Street
Dallas, TX 75242

PARTIES REQUESTING NOTICE

Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

/s/ Nicholas C. Inman
Nicholas C. Inman
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